

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

WP(C).No. 967 of 2007(M)

PETITIONER:

**M.V. DIAMOND, S/O. VARGHESE,
AGED 80, MATTUPURATH HOUSE, KARTHEDOM,
MALIPPURAM P.O., PIN-682 511.**

**BY ADV. SRI.S.SREEKUMAR
SRI.K.M.MOHAMMED KUNHI
SRI.R.V.SUJIT KUMAR**

RESPONDENTS:

- 1. THE ADDITIONAL DISTRICT MAGISTRATE,
ERNAKULAM.**
- 2. THE ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL SUB DIVISION, K.S.E.B., VYPIN,
MALIPPURAM P.O.**
- 3. NANU VIJAYAN,
VII/9, POTTANTHARA HOUSE, PUTHUVYPU P.O.**
- 4. ANTONY,
MALIYEKKAL HOUSE, PUTHUVYPU P.O.**

**BY ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB
ADV. SRI.O.F.JUSTIN FOR R3
GOVERNMENT PLEADER SMT. M.K.PUSHPALATHA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C) NO: 967/2007 M

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. COPY OF THE COMMON JUDGMENT IN FAO NO. 232/04, 233/04 AND 257/2004 BY THIS COURT DT. 29/09/2005.

EXT.P2. COPY OF THE REPRESENTATION DT. 8/9/04 BY R3.

EXT.P3. COPY OF THE OBJECTION DT. 8/12/2005 FILED BY PETITIONER.

EXT.P4. COPY OF THE SKETCH OF THE PROPERTY DT. 14/6/2002.

EXT.P5. COPY OF THE ORDER DT. 21/12/2006.

REX

EXT.R3A. COPY OF THE ROUGH SKETCH.

EXT.R3(1). COPY OF THE PETITION DT. 8/1/2004 SUBMITTED BEFORE THE DIST. COLLECTOR.

EXT.R3(2). COPY OF THE ORDER DT. 21/12/2006 BY R1.

EXT.R3(3). COPY OF THE 1ST PAGE OF RATION CARD ISSUED IN JANUARY 1996.

EXT.R3(4). COPY OF THE IDENTITY CARD ISSUED BY THE ELECTION COMMISSION IN THE YEAR 1998.

EXT.R3(5). COPY OF THE CERTIFICATE ISSUED BY THE ELANKUNNAPUZHA GRAMA PANCHAYATH.

[True Copy]

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K.BALAKRISHNAN NAIR, J.

WP(C).No.967 of 2007-M

Dated this the 19th day of February, 2007.

JUDGMENT

The petitioner challenges Ext.P5 proceedings of the Additional District Magistrate, Ernakulam permitting to draw electric line to give connection to the 3rd respondent. According the petitioner, the third respondent is a trespasser in the property assigned to him as early as on 3-3-1970. Therefore, he challenges Ext.P5 decision of the Additional District Magistrate permitting K.S.E.B. to draw line to give power supply to the 3rd respondent.

2. I heard the learned Standing Counsel for the K.S.E.B. and also the learned counsel appearing for the 3rd respondent. The third respondent denies the claim of the petitioner over the property.

3. If the petitioner establishes his claim over the property in the occupation of the third respondent and he is evicted from there, needless to say, the petitioner can move for dismantling the power connection given to the 3rd respondent's residence. So, Ext.P5 order is upheld, without prejudice to the contentions of the petitioner and 3rd respondent concerning the right over the property. In other words, this judgment will not affect any of the contentions of the

petitioner concerning his rights over the disputed property.

The writ petition is disposed of as above.

MS

K.BALAKRISHNAN NAIR,
JUDGE.